

[Submitting Counsel on Signature Page]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: SOCIAL MEDIA ADOLESCENT
ADDICTION/PERSONAL INJURY
PRODUCTS LIABILITY LITIGATION

MDL No. 3047

Case No. 4:22-md-03047-YGR

This Document Relates to:

**STATUS UPDATE REGARDING
PLAINTIFF STATES' LEADERSHIP**

4:23-cv-05448-YGR

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

The Plaintiff States submit the following update regarding the States' Leadership in advance of the November 16, 2023, case management conference.

I. The States are uniquely situated in this action.

Unlike the private plaintiffs represented by Plaintiffs' Leadership, the States are distinct sovereign entities. State sovereignty is a fundamental and long-recognized core principle of state and federal law. *See, e.g., Franchise Tax Bd. of California v. Hyatt*, 139 S.Ct. 1485, 1493-94 (2019). The States' Attorneys General are authorized by constitutions, statutes, and common law to act as the chief law officers of their respective states.¹ As such, they are authorized to represent

¹ *See, e.g.,* Ariz. Rev. Stat. § 41-192; Cal. Const. art. V, § 13; Colo. Rev. Stat. § 24-31-101(1)(b); Conn. Gen. Stat. § 3-125; 29 Del. Code Ann. § 2504; Ga. Const. Art. V, § III, Para. IV; Ga. Code Ann. § 45-15-3; Haw. Rev. Stat. § 26-7; Ill. Const. art. V, § 15; 15 ILCS 205/1 et seq.; 815 ILCS

1 the States in civil actions to enforce and vindicate public rights to protect their residents and to
 2 punish and deter misconduct within their borders and jurisdiction. The mandate of the Attorneys
 3 General includes the representation of states in enforcing the federal and state consumer
 4 protection laws raised in the States' Complaint. (Case No. 4:23-cv-05448, Doc. 1). The States'
 5 sovereign nature and the unique constitutional and statutory role of the Attorneys General does
 6 not allow or contemplate a court's appointment of private counsel to represent the States'
 7 interests.

8 In addition to the States being a different type of plaintiff altogether, the States' consumer
 9 protection enforcement claims are also "fundamentally different from a class action or other
 10 representative litigation." *Payne v. Nat'l Collections Sys., Inc.*, 91 Cal. App. 4th 1037, 1045
 11 (2001). The States' enforcement action is designed to protect the public, rather than benefit
 12 private parties. *City & Cnty. of San Francisco v. PG & E Corp.*, 433 F.3d 1115, 1125-26 (9th Cir.
 13 2006) (quoting *People v. Pac. Land Rsch. Co.*, 569 P.2d 125, 129 (Cal. 1977)). This is clear in the
 14 remedies States are authorized to pursue for consumer protection claims: injunctive relief, which
 15 can deter and prevent future misconduct, and civil penalties paid to the government, which deter
 16 and punish misconduct. States may seek restitution for individuals, but the scope of relief
 17 authorized for states' claims is much broader than repayment for individual harms, which is the
 18 primary object for private plaintiffs. *See Pac. Land Rsch. Co.*, 569 P.2d at 129. Because the
 19 nature of government consumer protection claims and the relief the States may seek here are
 20 fundamentally different from the claims alleged and relief sought by the private plaintiffs,
 21 municipalities, and school districts represented by Plaintiffs' Leadership, the States require their
 22 own distinct Leadership Structure to represent their interests here.

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 24
 25 505/7; Ind. Code § 4-6-1-6; Ky. Rev. Stat. Ann. 15.020(3); La. Const. art. IV, § 8; Md. Const. art.
 26 V, § 3; Minn. Stat. § 8.01; N.C. Gen. Stat. §§ 114-1 to 114-2; Ohio Rev. Code § 109.02; Or. Rev.
 27 Stat. § 180.010 et seq.; 71 Pa. Stat. Ann. § 732-101 et seq.; 73 Pa. Stat. Ann. § 201-1 et seq.; R.I.
 28 Gen. Laws 1956 § 42-9-2(a); S.D. Codified Laws 1-11-1; Va. Code Ann. §§ 2.2-500, 59.1-203;
 Wash. Rev. Code § 43.10.030; Wash. Const. art. III, § 21; Wisc. Const. art. VI, § 3; Wis. Stat. §§
 100.18(11)(d), 165.25(1m); *see also State v. Broad River Power Co.*, 157 S.C. 1, 153 S.E. 537,
 560 (1929).

1 **II. The States have closely coordinated their investigation and filing of the complaint**
 2 **against the Meta Defendants and will continue doing so during this litigation.**

3 State Attorneys General routinely collaborate in multistate coalitions to enforce state and
 4 federal consumer protection laws related to widespread issues of business misconduct that impact
 5 multiple jurisdictions. Through these coordinated efforts, the Attorneys General have effectuated
 6 reform in major areas such as the automotive, tobacco, and mortgage industries. When working in
 7 multistate coalitions in the consumer protection space, Attorneys General frequently coordinate
 8 on investigative efforts, discovery, litigation, settlement negotiations, and cost allocation.

9 Just so here. On October 24, 2023, thirty-three State Attorneys General filed a joint
 10 complaint in this Court, in coordination with eight additional State Attorneys General² who filed
 11 complaints against Meta in their respective state courts. Additionally, the Florida Attorney
 12 General filed in a similar enforcement action in federal court in Florida, which has since been
 13 conditionally transferred to this Court. The States, using previously established procedures,
 14 communication channels, and administrative supports for sharing documents and work product,
 15 have successfully operated in close coordination with each other to investigate the Meta
 16 Defendants' conduct. This multistate work has included the establishment of committees within
 17 the multistate coalition, delegation of roles, and cooperation to achieve common goals. The States
 18 would like to operate similarly within and throughout the litigation using established structures to
 19 manage discovery efforts, litigation responsibilities, approval structures, and cost allocation,
 20 where appropriate, among the States.

21 The States developed their States' Leadership to operate generally in parallel with the
 22 Plaintiffs' Leadership Structure approved by this Court and with the structure described in
 23 Section 10.22 of the Manual for Complex Litigation (Fourth). In allocating roles within the
 24 Leadership Structure, the States also considered the need to create a geographically and
 25 politically diverse representation of its members. The States have conferred and are in agreement
 26 regarding the Structure and allocation of their roles herein and have established procedures for

27 ² The District of Columbia, Massachusetts, Mississippi, New Hampshire, Oklahoma, Tennessee,
 28 Utah, and Vermont filed lawsuits alleging state consumer protection law violations in their
 respective state courts.

reviewing and approving action taken on their behalf by the States' Co-Lead Counsel. The States' Leadership Structure will allow for coordination with the other parties to this litigation, including the Plaintiffs' Leadership, as appropriate to maintain efficiency and a speedy and just resolution of this litigation.

III. The States have implemented a three-part leadership structure.

The States will organize themselves as follows:

A. States' Co-Lead Counsel

The States' Co-Lead Counsel will include Bianca Miyata (Senior Assistant Attorney General, Consumer Fraud, Colorado), Megan O'Neill (Deputy Attorney General, Consumer Protection, California), and Chris Lewis (Commissioner, Consumer & Senior Protection, Kentucky). To the extent that additional or substitute Co-Leads are needed later in the action, the Plaintiff States may designate such additional or substitute Co-Lead Counsel. The States' Co-Lead Counsel will be responsible for coordinating the activities of the States during the course of this litigation, with assistance, support and direction from the Steering Committee described below.

B. States' Liaison Counsel

Bianca Miyata (Colorado) and Megan O'Neill (California), with and through delegated staff from their respective offices, will also be designated as Liaison Counsel to provide an efficient point of contact with the States for the Court and other parties, including for purposes of scheduling.

C. States' Steering Committee

To maintain a nimble yet representative decision-making body, the States' Steering Committee will include the States' Co-Lead Counsel as well as five additional members from different States. To the extent that substitute or additional counsel are needed later in the action, the Co-Leads may designate such additions or substitutions.

D. States' Working Group

The remaining States will be assigned to the States' Working Group. The Working Group States will provide feedback to the States' Steering Committee regarding substantive and

dispositive decisions and perform work in support of the States' Co-Leads and States' Steering Committee when requested.

Dated: November 14, 2023

Respectfully submitted,

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1 ** In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of*
2 *perjury that all signatories have concurred in the filing of this document.*